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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------------|------------------|
| 10/613,090 | 07/07/2003 | Yong Cheol Park | 0465-1039P | 5080 |
| 2292 | 7590 | 12/29/2005 | EXAMINER TRAN, THANG V | |
| BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747 | | | ART UNIT 2653 | |
| DATE MAILED: 12/29/2005 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 10/613,090 | Applicant(s) PARK ET AL. | |
| | Examiner Thang V. Tran | Art Unit 2653 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 18-22, 24-65 and 68-74 is/are pending in the application.
- 4a) Of the above claim(s) 10-15, 18-22, 24-28, 66 and 67 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-8, 29-35, 37-65 and 68-74 is/are rejected.
- 7) ☒ Claim(s) 9 and 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

A communication dated 10/12/05 has been considered with the following results:

Election/Restrictions

1. Claims 10-15, 18-22, 24-28, 66, 67 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/12/05.

2. In response to Applicant's election with traverse of species I in the reply filed on 10/12/05, Applicant should note that since restriction was made based on different species, it is not required the examiner to demonstrate whether the claims are independent or distinct. Also, since the claims are directed to many different species, the burden would be on the examiner if the restriction is not being made. The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8, 29-64 and 68-74 are rejected under 35 U.S.C. 102(b) as being anticipated by Fukushima et al. (US 5,237,553).

Regarding claim 1, Fukushima et al., according to Figs. 1-6, discloses a method for writing or reproducing a data to/from an optical recording medium having a defect management areas (list areas) for managing a defective area, comprising steps of: determining whether data to

Art Unit: 2653

be written is a real time data (see column 8, lines 41-44); specifying defective areas based on information on defective areas listed on the defect management areas (list areas) prior to writing a real time data (see steps S55, 56), if the data to be written is a real time data; generating a write command (see step 56) such that the defective areas are not allocated to said real-time data to be written based upon the information on the defective areas; and writing the real-time data on the optical recoding medium in response to said write command (see column 8, line 34 to column 9, line 35, column 10, line 52 to column 11, line 2, and column 11, lines 15-28).

Regarding claims 2-5, see list areas C and G in Fig. 4a-4c and sector address of the defective sectors stored therein.

Regarding claim 6, see Fig. 3 and Fig. 6, steps 56-58.

Regarding claim 7, see steps 55-57 in Fig. 6

Regarding claim 8, see column 9, lines 62-68.

Regarding claim 29, see the rejection applied to claim 1 above.

Regarding claims 30-32, see list areas C and G in Fig. 4a-4c and sector address of the defective sectors stored therein.

Regarding claim 33, see Fig. 3 and Fig. 6, steps 56-58.

Regarding claim 34, see steps 55-57 in Fig. 6

Regarding claim 35, see column 9, lines 62-68.

Regarding claim 37, see the rejection applied to claim 1

Regarding claims 38-39, see list areas C and G in Fig. 4a-4c and sector address of the defective sectors stored therein.

Regarding claims 40-41, see Fig. 3 and Fig. 6, steps 56-58.

Regarding claim 42, see the rejection applied to claim 1

Regarding claims 43-44, see list areas C and G in Fig. 4a-4c and sector address of the defective sectors stored therein.

Regarding claims 45-46, see Fig. 3 and Fig. 6, steps 56-58.

Regarding claim 47, see the rejection applied to claim 1

Regarding claims 48 and 49, see list areas C and G in Fig. 4a-4c and sector address of the defective sectors stored therein.

Regarding claims 50 and 51, see Fig. 3 and Fig. 6, steps 56-58.

Regarding claim 52, see the rejection applied to claim 1 above.

Regarding claims 53 and 59, see Fig. 2 which shows an optical recording medium comprising: a defect management area (list areas) for managing defective areas; a data area ((data areas) including at least one defective area; a spare area (see spare area in Fig. 2) and file area (volume control area). The wherein statement, recited in claim 53, lines 4-8, or in claim 59, lines 10-15, is not directed to the structure of the recording medium as recited, but it is directed to an intended use of the optical recording medium to be used with other device or apparatus; therefore, no patentable weight is given to the information in the wherein statement. Nevertheless, see column 9, lines 6-22 and column 10, lines 63-56 for the limitations in the wherein statement as recited in claim 53 or 59.

Regarding claims 54-58 and 60-63, see Fig. 3.

Regarding claim 64 and 68-74, see Fig. 1 which includes a computer (12) interpreted as a controller for sending the write command to a record/playback (2).

Allowable Subject Matter

5. Claims 9 and 36 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. In response to applicant's arguments filed 05/31/05, Applicant's attention is drawn to Figs. 5 and 6 in which a microprocessor 1 sends all information during the formatting processing to host computer 12 before the host computer sends out a write command (see Fig. 5) for performing a recording of data. Also, upon reading the write command (Fig. 6), the microprocessor 1 specifies/detects defect areas (see column 8, lines 34-44 and so on ...), then notifies to the host computer 12 to reissue a write command to record the same data ... (see column 10, line 50 to column 11, lines 14. Clearly, in Fukushima et al, defect areas are specified or identified before a write command for writing the real time data on the recording medium is issued as recited in the instant claimed invention.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,


Art Unit: 2653

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thang V. Tran whose telephone number is (571) 272-7595. The examiner can normally be reached on M-F 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thang V. Tran
Primary Examiner
Art Unit 2653